

Remarks

By the foregoing Amendment, claims 34 and 35 are cancelled, and new claims 50, 51, 52, 53, 54, and 55 are presented. Entry of the Amendment, and favorable consideration thereof is earnestly requested.

The Examiner has objected to the specification because of what appears to be typographical errors. Specifically, the Examiner directed Applicant to Page 6, line 6 the term "susbstance" should be changed to "substance". After reading the Application, Applicant has made spelling corrections where found.

The Examiner has objected to the specification and taken the position that genus and species should be underlined or italicized. Applicants are entitled to be their own lexicographer and entitled to use terms and define terms in anyway, so long as such use is not repugnant to the ordinary meaning of the word. Applicants respectfully submit that the application is clear because one of ordinary skill in the art would readily recognize the listed organisms in the specification whether they are italicized, underlined, or not. Specifically the Examiner has directed the Applicants attention to page 36. Applicant has amended the Specification of page 36. Applicants submit that the specification is clear and should not be further objected to on these grounds.

The Examiner has objected to the drawings. The Office letter says "see attached form PTO 948", however, no PTO Form 948 was received by the Applicant. Applicants attempted to reach the Examiner by telephone for clarification, however, was not able to obtain clarification prior to filing this response. Accordingly, reconsideration of the 8 pages of formal drawings submitted on February 14, 2002 is requested.

The Examiner has indicated that the priority date of the instant application is September 7, 1999 because the United Kingdom priority document 9819484.8 had not been

Page 6
Serial No. 09/786,648
August 12, 2003

received. Applicant respectfully submits that the Examiner is incorrect. The instant Application is a 371 of PCT/GB99/02970, filed internationally on September 7, 1999, which claims priority to GB serial number 981984.8, filed September 1998.

Submitted herewith is Declaration in Support of Response to Official Action of 02/12/2003. The declaration is submitted by Michael Krenicky an attorney of record. Attached to the declaration is a true and correct copy of copy of PCT Notification Concerning Submission or Transmittal of Priority Document, Form PCT/IB/304 (July 1998) relating to International Application No. PCT/GB99/02970. That document indicates receipt of priority document by the International Bureau on 11/24/1999.

Applicants submit that under PCT procedure, the applicants may file a copy of the earlier filed national application together with the international application in the receiving office for transmittal with the record copy, or alternatively the copy may be submitted by the Applicant to the International Bureau or the receiving office not later than 16 months from the priority date or, if the applicants had requested earlier processing in any designated office, not later than the time such processing or examination is requested. The International Bureau will normally furnish copies of the certified copy to the various designated offices so that the Applicants will not normally be required to submit copies to each designated office. SEE MPEP 1830.

Here, as shown in the attached declaration, the priority document was received by the International Bureau on Nov. 24, 1999, which is not later than 16 months from the 9/7/98 priority date. The copy of PCT Notification Concerning Submission or Transmittal of Priority Document indicates that the "priority document concerned was submitted or transmitted to the International Bureau in compliance with Rule 17.1(a) or (b). Consequently, we can infer that a certified copy was received by the International Bureau. Applicants have relied on the International Bureau to furnish copies in this case.

Page 7
Serial No. 09/786,648
August 12, 2003

Therefore, September 7, 1999 is the US filing date for the instant application, and reconsideration of the objection is urged.

The Examiner has further objected to the claims for various reasons under 35 USC 112. The pending claims have been cancelled, thus Applicants have completely responded to the February 12, 2003 office letter.

The Examiner has further objected to claim 34 under 35 U.S.C. 102(b) in light of Williams et al., (WO97/02045, published January 23, 1997.) Claims 34 and 35 are cancelled, thus the rejection is obviated. However, Applicants note, a claim is anticipated only if "the identical invention [is] shown in complete detail as is contained in the claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed.Cir. 1989). It is respectfully submitted the new claims are to specific substances not disclosed in the prior art. Moreover, nothing in the prior art suggests modifying Williams to include the specific substances of the claimed invention, therefore, Williams does not make the new claims obvious.

It is respectfully submitted that new claims 50-55, all of the claims remaining in the application, are in order for allowance, and early notice to that effect is respectfully requested. If the Examiner has any questions about this communication he is invited to call Michael Krenicky at (203) 324-6155 to discuss.

Applicant believes that the number of claims paid for at the time of filing exceeds the cost of the claims added herein. Accordingly it is believed that no additional claim fees are due.

Page 8
Serial No. 09/786,648
August 12, 2003

Respectfully submitted,

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